

CALIFORNIA STATE PERSONNEL BOARD MEETING  
801 Capitol Mall  
Sacramento, California

Public Session Location - Room 150  
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES\*\*

JUNE 17, 2003

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

William Elkins, President  
Ron Alvarado, Vice President  
Maeley Tom, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. In anticipation of the loss of positions in the 2003-04 Governor's Budget, the Executive Staff has begun the reassignment and redirection of staff in positions scheduled for elimination. The budget cuts will have a significant impact on our Policy and Administrative Services Divisions.

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\*\* The State Personnel Board Summary Minutes can be obtained at the following Internet address:  
<http://www.spb.ca.gov/spbmeet/spbminrd.cfm>

- B. State Personnel Board (SPB) staff met with representatives of Senator Firebaugh's office to discuss the issuance of SPB rules concerning the implementation of recruitment and outreach provisions contained in SB 1045 (Polanco).
  - C. State Personnel Board Executive Officer, Walter Vaughn is assisting the California Capitol Region's United Way in their search for a Chief Executive Officer.
3. REPORT OF THE CHIEF COUNSEL - Elise Rose  
Report given by Karen Brandt, Senior Staff Counsel

The Chief Counsel reported on the following:

Litigation

- A. Safieslamy v. State Personnel Board (SPB) - The Los Angeles Superior Court has dismissed all of the claims against SPB and most of the claims against Dr. Weyers.
- B. International Union of Operating Engineers (IUOE) v. State Personnel Board (SPB) (Public Employment Relations Board Cases) - PERB Case No. SA-CE-1295-S - The Parties have filed their post-hearing briefs. PERB Case No. SA-CE-1395-S - PERB has dismissed IUOE's unfair practice charge against SPB.

Other

- A. The Public Employee's Retirement System has issued the brochure developed by the Disability Task Force entitled "Injured or Medically Incapacitated - Here is What You Need to Know About Your Benefits."
4. REPORT ON LEGISLATION - Sherry Hicks

The Board voted on the following:

- A. AB 292 (Yee) - As amended June 2, 2003, AB 292 proposes to add language to fourteen different California Codes to prohibit the use of children as interpreters for any state or local government agency, or a public or private agency, organization, entity, or program that is supported by state funding. SUPPORT  
VOTE: Elkins, Alvarado, Tom - Aye.

- B. AB 1209 (Nakano) - As amended April 21, 2003, AB 1209 would expand current exemptions under the Public Records Act to provide that specified vulnerability assessments and records relating to public facilities and infrastructure, as they relate to potential terrorist or other criminal acts are exempt from disclosure under the Public Records Act. The bill also makes permanent provisions of the Bagley Keene Act, scheduled to sunset in January 2006, that authorize state bodies to hold closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against state personnel or property. NEUTRAL  
VOTE: Elkins, Alvarado, Tom - Aye.
- C. AB 1229 (Simitian) - As amended April 30, 2003, would clarify state law prohibiting discrimination and harassment based on sex by providing that an employer who grants an employment opportunity or benefit to an employee who has submitted to that employer's sexual advances or requests for sexual favors, may be liable for sex discrimination against other qualified persons who were denied the employment opportunity or benefit. NO RECOMMENDATION  
VOTE: Elkins, Alvarado, Tom - Aye.
- D. AB 1583 (Koretz) - As introduced February 21, 2003, adds §19135 to the Government Code to prohibit State agencies, and the California State University, from employing a primary care physician as an independent contractor when there is an unfilled, full-time primary care physician position available within the agency. NEUTRAL  
VOTE: Elkins, Alvarado, Tom - Aye.
- E. SB 99 (Burton) - As amended May 29, 2003, authorizes the Legislative Counsel Bureau (LCB) to consolidate its information technology (IT) classes into non-traditional "band" classes and salary ranges. Additionally, this bill authorizes LCB to test for these IT classes on an individual position basis, as opposed to the traditional approach of testing by broad job classification. SUPPORT  
VOTE: Elkins, Alvarado, Tom - Aye.
- F. SB 854 (Soto) - As amended April 28, 2003, prohibits a state agency from submitting to the State Personnel Board (SPB) a proposed cost-savings contract within 12 months after SPB disapproved a contract for the same

services by the same contractor. This bill also provides that a personal services contract entered into by a state agency shall have no force and effect until it is approved by SPB. OPPOSE  
VOTE: Elkins, Alvarado, Tom - Aye.

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF MAY 20 AND JUNE 3, 2003  
ACTION: Adopted on June 17, 2003.  
VOTE: Elkins, Alvarado, Tom - Aye.
6. ADMINISTRATIVE LAW JUDGE CASES  
On June 17, 2003, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.  
VOTE: Elkins, Alvarado, Tom - Aye.

PROPOSED DECISIONS

OTTO FELSKA, CASE NO. 02-3112  
Appeal from ten-percent reduction in salary for ten months  
Correctional Counselor II, Specialist  
Delano - State Prison  
Department of Corrections  
ACTION: Ten percent reduction in salary for ten months sustained

LOUIS FREEMYERS, CASE NO. 02-0339  
Appeal from dismissal  
Heavy Truck Driver (CF)  
Susanville - California Correctional Center  
Department of Corrections  
ACTION: Dismissal modified to a 12 month suspension, plus back pay, benefits and interest

STAFFORD LEWIS, CASE NO. 99-5021B  
Appeal for determination of back salary, benefits, and interest after reinstatement  
Correctional Officer  
Represa- State Prison  
Department of Corrections  
ACTION: Back salary, benefits, and interest after reinstatement awarded

ROGER MURO, CASE NO. 02-3380  
Appeal from demotion as Driver Safety  
Manager I, to Driver Safety  
Officer, Range D  
Department of Motor Vehicles  
ACTION: Demotion as Driver Safety Manager I to Driver  
Safety Officer, Range D modified to a demotion for two years

ALFRED MYAH, CASE NO. 03-0195  
Appeal from four-step reduction in salary for twelve months  
Senior Psychiatric Technician  
San Jose Developmental Center  
Department of Developmental Services  
ACTION: Administrative Law Judge's proposed decision  
rejected by Board. Board to decide case itself

JOSEPH PFEIFER, CASE NO. 02-4390  
Appeal from two-step reduction in salary for twelve months  
Senior Psychiatric Technician  
San Jose - Developmental Center  
Department of Developmental Service  
ACTION: Two-step reduction in salary for twelve months  
modified to a two-step reduction in salary for six months

PETITIONS FOR REHEARING

GRACE BAUMGARTEN, CASE NO. 02-2313P  
Appeal from discrimination complaint  
Office Technician (Typing)  
Board of Equalization  
ACTION: Petition for rehearing filed by appellant denied

RONALD M. FALLAI, CASE NO. 02-3425  
Appeal from dismissal  
Conservationist I  
California Conservation Corps  
ACTION: Petition for rehearing filed by appellant denied

IVAN GALAMBOS, CASE NO. 02-1223P  
Appeal from rejection during  
probationary period  
Environmental Planner  
Department of Transportation  
ACTION: Petition for rehearing filed by appellant denied

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages 15-18.

8. WITHHOLD APPEALS

On June 17, 2003, the Board adopted the following decisions  
presented by Laura Aguilera, Assistant Executive Officer,  
California State Personnel Board.

VOTE: Elkins, Alvarado, Tom - Aye.

STUART ANDREWS, CASE NO. 02-4062  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

SCOTT BOARDMAN, CASE NO. 02-4249  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

JAMES BRADLEY, CASE NO. 02-3917  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

MARY BURKE, CASE NO. 02-3652  
Classification: Licensing Registration Examiner  
Department of Motor Vehicles  
ACTION: DENIED

NATASHA COATES, CASE NO. 02-3790  
Classification: Youth Correctional Officer  
California Youth Authority  
ACTION: DENIED

MATTHEW CONNOLLY, CASE NO. 02-3244  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

JOSE DE LA TORRE, CASE NO. 02-3783  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

CHRISTOPHER DUFAULT, CASE NO. 02-3785  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

DONNA FAULCONER, CASE NO. 02-3786  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

LANCE FRIDLUND, CASE NO. 02-4351  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

RAYMOND GARCIA, CASE NO. 02-2857  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DISMISSED

ROBERT GARCIA, CASE NO. 02-3611  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

BRIAN GIEG, CASE NO. 02-3704  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

BRUCE HAWKINS, CASE NO. 02-4465  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

MARIE JOHNSON, CASE NO. 02-4347  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

DEREK JULIO, CASE NO. 02-3732  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

MICHAEL LOWE, CASE NO. 02-4452  
Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

JOSE LOYA, CASE NO. 02-3733

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

JULIO MARTINEZ, CASE NO. 02-3366

Classification: Youth Correctional Officer

California Youth Authority

ACTION: GRANTED

ROWENA NEMECEK, CASE NO. 02-2532

Classification: Youth Correctional Officer

California Youth Authority

ACTION: DISMISSED

LUPE SAN MIGUEL, CASE NO. 02-2801

Classification: Correctional Officer

Department of Corrections

ACTION: DISMISSED

LUIS SIORDIA, CASE NO. 02-2604

Classification: Youth Correctional Officer

California Youth Authority

ACTION: DISMISSED

CHARLES SWART, CASE NO. 02-3294

Classification: Youth Correctional Officer

California Youth Authority

ACTION: DENIED

JONATHAN TAYLOR, CASE NO. 02-3096

Classification: Cadet, CHP

California Highway Patrol

ACTION: DENIED

9. MEDICAL APPEALS

On June 17, 2003, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Alvarado, Tom - Aye.

FRANK KIEFER, CASE NO. 03-1111

Classification: Correctional Officer

Department of Corrections

ACTION: DISMISSED



JOHN SHANER, CASE NO. 03-0930  
Classification: Groundskeeper  
Department of Developmental Services  
ACTION: DISMISSED

10. VOIDED APPOINTMENT APPEALS  
On June 17, 2003, the Board adopted the following decisions  
presented by Laura Aguilera, Assistant Executive Officer,  
California State Personnel Board.  
VOTE: Elkins, Alvarado, Tom - Aye.

LARRY MOORE, CASE NO. 03-0174  
Classification: Director, Television Communications Center  
(Specialist)  
Department of Transportation  
ACTION: DENIED

11. REQUEST TO FILE CHARGES CASES  
PETITIONS FOR REHEARING CASES  
On June 17, 2003, the Board adopted the following decisions  
presented by Laura Aguilera, Assistant Executive Officer,  
California State Personnel Board.  
VOTE: Elkins, Alvarado, Tom - Aye.

(Request to File Charges)

JESSE CALHOUN, CASE NO. 02-3963  
Classification: A Committed Offender  
Department of Mental Health  
ACTION: DENIED

SHIRLEE CISNEROS, CASE NO. 02-1132  
Classification: Associate Information System Analyst  
Department of Health Services  
ACTION: DENIED

CAROL DAVIS, CASE NO. 02-3120  
Classification: Supervising Registered Nurse  
Department of Veterans Affairs  
ACTION: DENIED

FRANCIS LABLANC, CASE NO. 02-3196  
Classification: A Committed Offender  
Department of Mental Health  
ACTION: DENIED

ROBERT MCDANIEL, CASE NO. 02-3197  
Classification: A Committed Offender  
Department of Mental Health  
ACTION: DENIED

PATRICIA ROBERTS, CASE NO. 02-2589  
Classification: A former employee of  
Employment Development Department  
ACTION: DENIED

REBECCA SABATINO, CASE NO. 02-2302G; ELAINE MONTES, CASE NO.  
02-4002G; SYLVIA FLORES, CASE NO. 02-4003G; LETICIA DIAZ,  
CASE NO. 02-4005G (Group Appeal)  
Classification: Motor Vehicle Field  
Representative  
Department of Motor Vehicles  
ACTION: DENIED

(Petitions for Hearing)

AVRIL ADAMS, CASE NO. 02-3274P  
Classification: Food & Drug Investigator  
Department of Health Services  
ACTION: DENIED

MEAGAN BEALE, CASE NO. 01-1685P  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DENIED

MICHAEL GONCALVES, CASE NO. 02-0663P  
Classification: Staff Services Analyst  
(General)  
Department of Insurance  
ACTION: DENIED

12. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER  
CONSIDERATION

- (1) DEPUTY GENERAL COUNSEL  
The California Public Employee's Retirement System  
requests to allocate the above position to the CEA  
category. The Deputy General Counsel serves as a

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member of CalPERS Senior Management staff and is of critical importance to the organization, providing legal advice and recommendations regarding enterprise wide policies and objectives.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. MERIT RULE - Proposed adoption of the new Section 250 to the California Code of Regulations (CCR) entitled Requirement that Selection be Based on Merit and Fitness. (Hearing held July 23, 2002).

NO ACTION

2. TEACHER STATE HOSPITAL (SEVERLY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

3. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

4. ANSWERS OR APPEALS FILED WITH STATE PERSONNEL BOARD  
State Personnel Board (SPB) staff is proposing to adopt new Rule 63 to require, in part, that answers or appeals filed with SPB, requesting that a hearing or investigation be conducted by SPB, notify the responding party of all planned affirmative defenses and requests for relief. (Hearing held February 3, 2003).

NO ACTION

5. TONY PORCELLA, CASE NO. 01-2898. Appeal from dismissal. California Highway Patrol. (Oral argument held February 3, 2003).

NO ACTION

6. BARBARA LENOUE, CASE NO. 01-3441. Appeal from dismissal. Department of Developmental Services. (Oral argument held March 4, 2003).

NO ACTION

7. STEPHEN VAN ZEE, CASE NO. 01-3017. Appeal from withdrawal of employment offer. Office of Inspector General. (Oral argument held March 4, 2003).

NO ACTION

8. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the newclassification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003).

NO ACTION

9. JOHN HUGHES, CASE NO. 01-4078. Appeal from ten-percent reduction in salary for 12 months. Department of Corrections. (Oral argument held April 8, 2003).

NO ACTION

10. BONNIE SNYDER, CASE NO. 02-0556. Appeal from ten working days suspension. Department of Social Services. (Oral argument held April 8, 2003).

NO ACTION

11. VAROOZH TORROSSIAN, CASE NO. 02-1147. Appeal from non-punitive termination. Department of Transportation. (Oral argument held April 8, 2003).

NO ACTION

12. DEBORAH WHITE-SANBORN, CASE NO. 02-1155P. Appeal from dismissal. Department of Developmental Services. (Oral argument held May 6, 2003).

NO ACTION

13. RICHARD SINCLAIR, CASE NO. 01-3902. Appeal from 60-calendar day suspension. Department of Corrections. (Oral argument held May 6, 2003).

NO ACTION

14. PSC NO. 03-01  
Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE) from the Executive Officer's December 24, 2002 Approval of a Contract (Contract) for legal services between the California Department of Food and Agriculture (CDFA) and the law firm of Steefel, Levitt & Weiss. (Hearing held May 6, 2003).

NO ACTION

15. CAROLYN HYMAN-PERRY, CASE NO. 00-0140. Appeal from dismissal. Department of the Youth Authority. (Hearing held June 3, 2003).

NO ACTION

16. LAWRENCE SCHAEFER, CASE NO. 02-0079. Appeal from 60 calendar days suspension and position reassignment. HARRY MILLER, CASE NO. 02-0160. Appeal from demotion and position reassignment. Department of Corrections. (Hearing held June 3, 2003).

NO ACTION

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.



**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

June 17, 2003

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on June 17, 2003.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Elkins, Alvarado, Tom - Aye